

Appl. No. 10/797,423
Atty. Docket No. 9181
Amdt. dated December 14, 2005
Reply to Office Action of September 14, 2005
Customer No. 27752

REMARKS

Claim Status

Claims 1 – 20 are pending in the present application. No additional claims fee is believed to be due. Claims 1, 2, 11, 14 and 20 have been rejected under 35 U.S.C. § 102. Claims 3 – 10, 12 – 13, 15 – 19 have been rejected under 35 U.S.C. § 103. Claims 1, 5, 14 and 20 have been amended. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. § 102 Over Otten

Claims 1 – 2, 11, 14, and 20 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Otten et al. (US Patent No. 6,257,785)(hereafter "Otten"). Applicants respectfully traverse this rejection.

Otten fails to teach each and every element of the claimed invention as amended and therefore does not anticipate the claimed invention. The current application is directed to a disposable nonwoven cleansing mitt comprising substantially complimentary sheet members, an adjustment means and a personal care composition. Each nonwoven sheet member may have an interior and an exterior surface. Further, the first nonwoven sheet member comprises a nonwoven high loft batting. Otten teaches a semi-enclosed applicator that may be in the shape of a glove. The glove of Otten may have front and back panels, each panel having an inner and outer surface. The glove of Otten may also deliver an embedded substance to a surface. Otten, however, still does not teach each and every element of the claimed invention.

Claims 1, 14, and 20 each require the cleansing mitt to be composed of nonwoven members. The first nonwoven member further comprises a nonwoven high loft batting. Otten does not teach a nonwoven high loft batting. Thus there can be no anticipation by Otten of Claims 1, 14, and 20. As Claims 2 and 11 are dependent upon Claim 1, there can be no anticipation by Otten of Claims 2 and 11. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Otten

Claims 3 and 15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Otten. Applicants respectfully traverse this rejection.

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Otten fails to teach or suggest each and every element of the claimed invention and therefore does not render the claimed invention obvious. Claim 3 is dependent upon Claim 1 and Claim 15 is dependent upon Claim 14. Otten fails to teach or suggest the nonwoven high loft batting of the first nonwoven member as recited in Claims 1 and 14. Since Otten fails to teach or suggest each and every element of Claims 1 and 14, Otten also fails to teach or suggest each and every element of Claims 3 and 15. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Otten

Claim 4 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Otten. Applicants respectfully traverse this rejection.

Otten fails to teach or suggest each and every element of the claimed invention and therefore does not render the claimed invention obvious. Claim 4 is dependent upon Claim 1. Otten fails to teach or suggest the nonwoven high loft batting of the first nonwoven member as recited in Claim 1. Since Otten fails to teach or suggest each and every element of Claim 1, Otten also fails to teach or suggest each and every element of Claim 4. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Otten in view of Giradot

Claim 5 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Otten in view of Giradot et al. (US Patent No. 5,412,830)(hereafter "Giradot"). Applicants respectfully traverse this rejection.

There are three possible sources for motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. Obviousness can only be established by combining the prior art if there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. The Office makes the argument that it would have been obvious to have provided the batt of Giradot into the glove of Otten. The combination of the two publications, however, must still teach or suggest each and every element of the claimed elements. A combination of the respective disclosures in this instance would be improper because there is no suggestion in the references themselves to make Applicants' claimed invention.

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Otten fails to teach or suggest each and every element of the claimed invention and therefore does not render the claimed invention obvious. Claim 5 is dependent upon Claim 1. Otten fails to teach or suggest the nonwoven high loft batting of the first nonwoven member as recited in Claim 1. The Office Action is relying on the Giradot reference for the teaching or suggestion of a high loft batting. The Office Action states that it would have been obvious "to have employed a high loft material to the disposable glove of Otten et al so that the layer of high loft may feel soft to the user skin."

Giradot teaches a personal cleansing implement which comprises a tubular piece of a diamond-mesh scrim. The diamond mesh scrim may be stretched and gathered into pleats to form a resilient batt (12). A softer layer of hydrophobic knitted material then lies against the top surface of the batt. Scrim, as defined by Webster's Third New International Dictionary, is a durable plainwoven fabric usually of cotton woven loosely with fine to coarse meshes. Scrim, thus, is a woven material. Otten utilizes nonwoven materials. The currently application is directed to a nonwoven high loft batting material. There is no teaching, suggestion or motivation provided that one of ordinary skill would, after reading Otten's teaching of nonwoven materials, look to Giradot and in the place of nonwoven materials, utilize woven materials. As a result, there is no teaching of the elements claimed in the current application.

"There must be some suggestion, motivation, or teaching in the prior art whereby the person of ordinary skill would have selected the components that the inventor selected and use them to make the new device." *Golight Inc. v. Wal-Mart Stores Inc.*, 69 U.S.P.Q.2d 1481, 1488 (Fed. Circ. 2004). In the absence of evidence that suggests the desirability of combining references in a proposed manner, such combination is not available to preclude patentability under 35 U.S.C. § 103. *King Instrument Corp. v. Otari Corp.*, 767 F.2d 853 (Fed. Cir. 1985). Based on a lack of motivation to combine the two references, Applicants respectfully submit that the rejection is improper.

Since Otten fails to teach or suggest each and every element of Claim 1, Otten also fails to teach or suggest each and every element of Claim 5. The addition of Giradot does not overcome the failed teachings of Otten. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Otten in view of Giradot

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Claims 6 and 16 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Otten in view of Giradot. Applicants respectfully traverse this rejection.

Otten fails to teach or suggest each and every element of the claimed invention and therefore does not render the claimed invention obvious. Claim 6 is dependent upon Claim 3 which is further dependent from Claim 2 and further from Claim 1. Claim 16 is dependent upon Claim 14. Otten fails to teach or suggest the nonwoven high loft batting of the first nonwoven member as recited in Claim 1 and Claim 14. The Office Action is relying on the Giradot reference for the teaching or suggestion of a high loft batting. The Office Action further states that "as to the limitation such that the first non-woven member comprises a C-folded around a nonwoven high lift [sic] batting, it would have been obvious to ...have folded the non-woven material of Otten et al to ensure the mechanical strength of the glove."

For the reasons stated above in the rejection of Claim 5 over Otten in view of Giradot, Otten fails to teach each and every element of Claims 6 and 16. Giradot, with the use of woven scrim material, does not overcome the failings of Otten. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 103(a) Over Otten in view of Skewes

Claims 7, 8, 17, and 18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Otten in view of Skewes et al. (US Patent No. 6,206,863)(hereafter "Skewes"). Applicants respectfully traverse this rejection.

Otten fails to teach or suggest each and every element of the claimed invention and therefore does not render the claimed invention obvious. Claim 7 is dependent upon Claim 1 and Claim 8 is dependent upon Claim 7. Claim 17 is dependent upon Claim 14 and Claim 18 is dependent upon Claim 17. Otten fails to teach or suggest the nonwoven high loft batting of the first nonwoven member as recited in Claims 1 and 14.

Skewes teaches a kit containing a plurality of sheets or mitts that are made of a nonwoven cotton or polyester/cotton blend. Skewes also teaches that the sheets or mitts are impregnated with a liquid cleanser. The cleanser is applied in an amount that will saturate the sheets and the excess amount of cleanser is then squeezed out of the sheets. The cleanser, however, always remains in liquid form. In use, the sheets are placed in a microwave and heated until warm to the touch. Skewes, however, does not overcome the

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lack of a teaching or suggestion by Otten of a nonwoven high loft batting material. Furthermore, the cleanser of Skewes is a liquid and the cleansing composition of the current application is in the form of a paste or a dry solid. The wet cleanser of Skewes need not be activated by another liquid in order to be released from the sheets. The dry composition of the current application, however, is releasably carried on the mitt and requires the activation by a liquid in order to be released from the mitt to clean the skin. There is no teaching, suggestion, or motivation that one of skill would have placed a dry composition onto the sheets of Skewes. Skewes requires heating of the sheets. There is no teaching that a dry composition, such as in the current application, would be enabled to perform in the same manner if placed onto the sheets of Skewes and used in the method as taught by Skewes.

The use of Skewes in combination with Otten fails to teach or suggest each and every element of Claims 1 and 14, and therefore the combination also fails to teach or suggest each and every element of Claims 7, 8, 17 and 18. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Otten in view of Wong

Claims 9, 10, 12 and 19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Otten in view of Wong et al. (WO 03/000106)(hereafter "Wong"). Applicants respectfully traverse this rejection.

Otten fails to teach or suggest each and every element of the claimed invention and therefore does not render the claimed invention obvious. Claim 9 is dependent upon Claim 1. Claim 10 is dependent upon Claim 9. Claim 12 is dependent upon Claim 11 which is dependent upon Claim 1. Claim 19 is dependent upon Claim 14. Otten fails to teach or suggest the nonwoven high loft batting of the first nonwoven member as recited in Claims 1 and 14.

Wong teaches an applicator that may deliver a substance to a target surface. The applicator of Wong comprises first and second sides, a reservoir for containing and dispensing a product, and a substantially fluid impervious layer. The fluid impervious layer is provided by the use of a polyolefin film and protects the hand during use and from any liquid contained in the reservoir. Wong uses the film as a barrier. The Otten reference specifically teaches transferring a substance from the mitt to the user's hand. Wong, therefore, teaches away from the Otten reference by the use of a barrier in the mitt to prevent transfer of substances or liquids to the user's hand. There is no teaching,

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suggestion or motivation as to why one of skill in the art would modify the glove of Otten to include the polyolefin film of Wong when Otten wants to deliver a substance to the user's hand and Wong wants to ensure that a substance is not delivered to the user's hand. As noted above, in the absence of evidence that suggests the desirability of combining references in a proposed manner, such combination is not available to preclude patentability under 35 U.S.C. § 103. *King Instrument Corp. v. Otari Corp.*, 767 F.2d 853 (Fed. Cir. 1985).

Additionally, Wong does not overcome the lack of a teaching or suggestion by Otten of a nonwoven high loft batting material. Since a combination of Otten and Wong fails to teach or suggest each and every element of Claims 1 and 14, the combination also fails to teach or suggest each and every element of Claims 9, 10, 12 and 19. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Otten in view of Piquet

Claim 13 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Otten in view of Piquet et al. (FIR Patent Application No. 2,813,777)(hereafter "Piquet"). Applicants respectfully traverse this rejection.

Otten fails to teach or suggest each and every element of the claimed invention and therefore does not render the claimed invention obvious. Claim 13 is dependent upon Claim 1. Otten fails to teach or suggest the nonwoven high loft batting of the first nonwoven member as recited in Claim 1.

Piquet teaches a disposable reversible glove that comprises three superposed layers of a soft nonwoven tight cotton fiber, absorbent nonwoven wadding material and an impermeable film. The impermeable layer is on the interior of the glove. The only property of that particular layer is to be impermeable to liquids, and hence, to keep the user's hand dry and clean from any liquids or solids. Once the glove is reversed, the impermeable layer serves the purpose of trapping the dirty matter within the pocket formed by the reversal of the glove. The Otten reference specifically teaches transferring a substance from the mitt to the user's hand. Piquet, therefore, teaches away from the Otten reference by the use of a barrier in the mitt to prevent transfer of substances or liquids to the user's hand. There is no teaching, suggestion or motivation as to why one of skill in the art would modify the glove of Otten to include the impermeable layer of Piquet when Otten wants to deliver a substance to the user's hand and Piquet wants to ensure that a substance is not delivered to the user's hand. As noted above, in the absence

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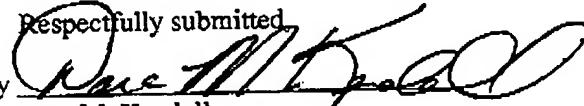
of evidence that suggests the desirability of combining references in a proposed manner, such combination is not available to preclude patentability under 35 U.S.C. § 103. *King Instrument Corp. v. Otari Corp.*, 767 F.2d 853 (Fed. Cir. 1985).

The combination of Otten and Piquet fails to teach or suggest each and every element of Claim 1 and Claim 13. Reconsideration and withdrawal of this rejection are respectfully requested.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 102 and 35 U.S.C. § 103. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1 – 20 are respectfully requested.

Respectfully submitted,
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